

(1)

Jalam Singh Vs. Board of Revenue & Others

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

: O R D E R :

Jalam Singh Vs. Board of Revenue & Others.
(S.B. Civil Writ Petition No.579/2004)

DATE OF ORDER : April 02, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. P.R. Singh for the petitioner.
Mr. Rakesh Arora/Mr. S.P. Bhati for the respondent(s).

BY THE COURT :

In the present writ petition, the petitioner has prayed for quashing impugned order dated 25.07.2003 (Annex.-5) passed by the Board of Revenue, Ajmer and order dated 13.07.1999 (Annex.-4) passed by the Sub-Divisional Officer, Sirohi and further prayed that the respondents may be directed to take the amendment sought vide application Annex.-3 on record.

According to facts of the case, respondent No.3 filed revenue suit in the Court of Asstt. Collector, Sirohi in the year

1975. The said suit was dismissed by the learned Asstt. Collector, Sirohi vide judgment dated 04.07.1978. In appeal, the Revenue Appellate Authority ordered to remand the matter to the Court of Asstt. Collector, Sirohi vide order dated 30.03.1995. Against that remand order, the petitioner moved second appeal before the Board of Revenue and the learned Board of Revenue partly allowed the appeal filed by the petitioner vide order dated 31.03.1997, wherein the Board of Revenue observed that both the petitioner and respondent are entitled to portion in equal share and the matter was remanded to the Asstt. Collector for decision.

The petitioner, being respondent in that proceedings, filed application under Order VI Rule 17, read with Section 151, C.P.C. for amendment in his reply before the learned Sub-Divisional Officer, Sirohi. The S.D.O., Sirohi rejected the application filed by the petitioner vide order dated 13.07.1999 against which the petitioner preferred revision petition before the respondent No.1 Board of Revenue. That, too, was dismissed on the ground that if at this stage application under Order VI Rule 17 is allowed then respondent plaintiff shall suffer irreparable loss. The petitioner has preferred the present writ petition challenging the order passed by the S.D.O., Sirohi dated 13.07.1999 as well as order passed by the Board of Revenue on

25.07.2003, Annex.-4 and 5 to the writ petition.

It is contended by learned counsel for the petitioner that the proposed amendment is just explanatory with respect to the consequential relief prayed by the petitioner and the amendment sought by the petitioner is only extension of his earlier pleading. It is further contended that the amendment is necessary and relevant to the controversy involved in the present matter.

Per contra, learned counsel for the respondents submits that both the learned S.D.O. and Board of Revenue have rightly rejected the application and there is no ground to allow the application filed under Order VI Rule 17, C.P.C. at the stage. It is contended by learned counsel for the respondents that the amendment which the petitioner wants to incorporate was in his knowledge at the time of filing the written statement in the year 1976; and, now, at this belated stage, he cannot be permitted to do so.

I have perused the impugned orders.

I see no reason to interfere in the concurrent finding of the authorities below because the petitioner is seeking amendment after 22 years in his written statement at the stage after the case has been remanded by the Board of Revenue and, so also, upon the fact that the amendment sought by the petitioner is only with regard to consequential relief prayed for by the

(4)

Jalam Singh Vs. Board of Revenue & Others

petitioner and, as per contention of the petitioner, for extension of earlier pleadings. After remand of the proceedings, such an application has rightly been dismissed. No case is made out for interference.

The writ petition is dismissed.

(Gopal Krishan Vyas) J.